



General Assembly

Substitute Bill No. 1240

January Session, 2001

***AN ACT TO PERMIT THE BRISTOL RESOURCE RECOVERY
FACILITY OPERATING COMMITTEE TO FINANCE PROJECTS AND
REFUND PREVIOUSLY ISSUED BONDS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1 of special act 92-25 is amended to read as
2 follows:

3 As used in [this act] special act 92-25, as amended by this act, and
4 section 8 of this act:

5 (1) "Bonds" means bonds, notes or other obligations, including, but
6 not limited to, refunding bonds.

7 (2) "Inter-community agreement" means the agreement dated as of
8 August 1, 1985, by and among the towns and cities of Bristol and New
9 Britain and the towns of Berlin, Burlington, Plainville, Plymouth,
10 Southington and Washington, as such agreement has been amended to
11 include the towns of Wolcott, Warren, Hartland, Branford, Seymour
12 and Prospect and as such agreement may be further amended from
13 time to time.

14 (3) "Original bonds" means the seventy-three million five hundred
15 twenty thousand dollars face amount of Connecticut Development
16 Authority Solid Waste and Electric Revenue Bonds, Ogden Martin
17 Systems of Bristol, Inc. Project -1985 Series, issued September 18, 1985.

18 (4) "Original project agreements" means all agreements or contracts

19 and amendments thereto entered into with respect to the issuance of
20 the original bonds and the security therefor, including, but not limited
21 to, the loan agreement, security agreement, service agreement, project
22 agreement, inter-community agreement, reimbursement agreement
23 and guarantee.

24 (5) "Project" means the mass burn solid waste disposal, electric
25 power generating and resource recovery facility in the city of Bristol,
26 financed by the original bonds.

27 (6) "Refunding bonds" means bonds issued pursuant to this act to
28 refinance the project and to finance related cost of such refinancing
29 and to refinance any bonds issued by the committee.

30 (7) "Committee" means the resource recovery operating committee
31 created pursuant to [section 22a-221(c)] subsection (c) of section 22a-
32 221 and the inter-community agreement.

33 (8) "Landfill project" means activities required to provide landfill
34 services to the municipalities of the committee that include, but are not
35 limited to, the planning, acquiring, constructing, closing or expanding
36 the city of Bristol landfill; providing a new landfill or access to a new
37 landfill in any location; the payment of engineering and consulting
38 fees; site preparation; wetlands replication; storm water management;
39 landfill capping; monitoring, acquisition or transfer of real property or
40 interests therein; providing gas control mechanisms, equipment,
41 landscaping and all necessary and appropriate appurtenances thereto
42 or the financing of costs, including, but not limited to, legal, printing,
43 administrative, financing and related costs or the committee's share of
44 such costs pursuant to an agreement to provide, develop or operate a
45 landfill and share costs with other entities in connection with the
46 landfill project.

47 Sec. 2. Section 2 of special act 92-25 is amended to read as follows:

48 (a) The committee is authorized to issue (1) refunding bonds to
49 refinance all or any portion of the outstanding original bonds,

50 [including costs] (2) bonds to finance a project, and (3) refunding
51 bonds. Such bonds may include the cost of issuance, debt service
52 reserve, interest on the [refunding] bonds for a period not to exceed
53 five years, credit enhancement, call premium, fees and costs associated
54 with any contract entered into by the committee pursuant to this
55 section and notice of redemption of the original or prior bonds, and in
56 connection therewith to enter into [agreements for the purpose of
57 moderating interest rate fluctuations, including investment contracts,
58 funding agreements] forward purchase agreements and agreements to
59 issue bonds at a future date.

60 (b) In connection with or incidental to the carrying of bonds or in
61 connection with or incidental to the issuance of bonds, the committee
62 may enter into such contracts as it may determine to be necessary or
63 appropriate to place the obligations of the committee, as represented
64 by the bonds, in whole or in part, on such interest rate or cash flow
65 basis as the committee may determine, including, but not limited to,
66 interest rate swap agreements, insurance agreements, forward
67 payment conversion [and forward purchase agreements, agreements
68 to issue bonds at a future date, future] agreements, futures contracts,
69 contracts providing for payments based on levels of or changes in
70 interest rates, or market indices, contracts to [exchange cash flows or a
71 series of payments, contracts] manage interest rate risk, including
72 without limitation, [credit facilities authorized pursuant to section 7-
73 370b of the general statutes, remarketing, options, puts or calls to
74 hedge payment, rate, spread or similar exposure] interest rate floors or
75 caps, options, puts, calls and similar arrangements. Such contracts
76 shall contain such payment, security, default, remedy and other terms
77 and conditions as the committee may deem appropriate and shall be
78 entered into with such party or parties as the committee may select,
79 after giving due consideration, where applicable, to the
80 creditworthiness of the counter party or counter parties, including any
81 rating by a nationally recognized rating agency, the impact on any
82 rating of any outstanding bonds or any other criteria as the committee
83 may deem appropriate, provided the long-term obligations of the

84 counter party is rated the same or higher than the underlying rating of
85 the committee on the applicable bonds by at least one nationally
86 recognized rating agency. The committee may pledge the collateral
87 that secures the applicable bonds or notes to the committee's payment
88 obligations under any agreement entered into pursuant to this section.
89 As part of a contract between the committee and the parties to any
90 agreement entered into pursuant to this section appropriation of all
91 amounts necessary for the punctual payment of the obligations of the
92 committee under such agreement is hereby made and the committee
93 shall pay such amounts as the same become due.

94 (c) The committee may obtain from a commercial bank or an
95 insurance company authorized to do business within or without this
96 state a letter of credit, line of credit or other liquidity facility or credit
97 facility for the purpose of providing funds for the payment in respect
98 of bonds required by the holder thereof to be redeemed or repurchased
99 prior to maturity or for providing additional security for such bonds.
100 In connection therewith, the committee may enter into reimbursement
101 agreements, remarketing agreements, standby bond purchase
102 agreements or any other necessary or appropriate agreements. The
103 committee may pledge the collateral that secures the applicable bonds
104 for the committee's payment obligations under any agreement entered
105 into pursuant to this section. As part of the contract between the
106 committee and the parties to any agreement entered into pursuant to
107 this section, appropriation of all amounts necessary for the punctual
108 payment of the obligations of the committee under such agreement is
109 hereby made and the committee shall pay such amounts as the same
110 become due.

111 (d) Any pledge of collateral made pursuant to this section shall be in
112 effect until the obligation for which the pledge is made has been fully
113 paid or terminated, or provision has been made for such payment. Any
114 such pledge shall be valid and binding from the time when the pledge
115 is made; moneys or rents so pledged and thereafter received by the
116 committee shall immediately be subject to the lien of such pledge
117 without any physical delivery thereof or further act; and the lien of any

118 such pledge shall be valid and binding as against parties having claims
119 of any kind in tort, contract, or otherwise, against the committee,
120 irrespective of whether such parties have notice of such lien. Neither
121 the resolution, trust indenture pledge or security agreement nor any
122 other instrument by which a pledge is created need be recorded.

123 Sec. 3. Section 3 of special act 92-25, as amended by section 9 of
124 special act 93-40, is amended to read as follows:

125 The principal of and interest on [refunding] bonds issued by the
126 committee, and any agreement as set forth in section 2 of special act 92-
127 25, as amended by this act, may be secured by a pledge of any
128 revenues and receipts of the committee derived from the project and
129 may be additionally secured by the assignment of a lease of the project
130 or by an assignment of the revenues and receipts derived by the
131 committee from any such lease. The payment of principal and interest
132 on such [refunding] bonds may be additionally secured by a pledge of
133 any other property, revenues, moneys or funds available to the
134 committee for such purpose. The resolution authorizing the issuance of
135 [refunding] bonds and any such lease may contain or authorize
136 agreements and provisions respecting (1) the establishment of reserves
137 to secure such [refunding] bonds, (2) the maintenance and insurance of
138 the project covered thereby, (3) the fixing and collection of rents for
139 any portion thereof leased by the committee to others, (4) the creation
140 and maintenance of special funds from such revenues, (5) the rights
141 and remedies available in the event of default, (6) provision for a trust
142 agreement by and between the committee and a corporate trustee or
143 trustees which may be any trust company or bank having the powers
144 of a trust company within or without the state, which agreement may
145 provide for the pledge or assigning of any assets or income from assets
146 to which or in which the committee has rights or interest, the vesting
147 in such trustee or trustees of such property, rights, powers and duties
148 in trust as the committee may determine, which may include any or all
149 of the rights, powers and duties of any trustee appointed by the
150 holders of any [refunding] bonds and limiting or abrogating the right
151 of the holders of any [refunding] bonds to appoint a trustee or limiting

152 rights, powers and duties of such trustee, and may further provide for
 153 such other rights and remedies exercisable by the trustee as may be
 154 proper for the protection of the holders of any [refunding] bonds and
 155 not otherwise in violation of law. Such trust agreement may provide
 156 for the restriction of rights of any individual holder of [refunding]
 157 bonds of the committee and may contain any provisions which are
 158 reasonable to delineate further the respective rights, due safeguards,
 159 responsibilities and liabilities of the committee, persons and collective
 160 holders of [refunding] bonds of the committee and the trustee, (7)
 161 covenants to do or refrain from doing acts and things as may be
 162 necessary or convenient or desirable in order to better secure
 163 [refunding] bonds of the committee, or which, in the discretion of the
 164 committee, will tend to make any [refunding] bonds to be issued more
 165 marketable, notwithstanding that such covenants or things may not be
 166 enumerated in this act, [.] and (8) any other matters of like or different
 167 character, which in any way affect the security or protection of the
 168 [refunding] bonds, all as the committee shall deem advisable and not
 169 in conflict with the provisions of this act. Each pledge, agreement or
 170 assignment of lease made for the benefit or security of any [refunding]
 171 bonds of the committee shall be in effect until the principal of and
 172 interest on the [refunding] bonds for the benefit of which the same
 173 were made have been fully paid, or until provision has been made for
 174 the payment in the manner provided in the resolution or resolutions
 175 authorizing the issuance. Any pledge made in respect of such
 176 [refunding] bonds shall be valid and binding from the time when the
 177 pledge is made; moneys or rents so pledged and thereafter received by
 178 the committee shall immediately be subject to the lien of such pledge
 179 without any physical delivery thereof or further act; and the lien of any
 180 such pledge shall be valid and binding as against parties having claims
 181 of any kind in tort, contract or otherwise against the committee,
 182 irrespective of whether such parties have notice thereof. Neither the
 183 resolution, trust indenture nor any other instrument by which a pledge
 184 is created need be recorded. The committee may, without further
 185 approval of the legislative bodies of the municipalities which are
 186 parties to the original project agreements, assign, amend, reaffirm, or

187 terminate any or all of such original project agreements to secure the
188 [refunding] bonds and exercise the powers set forth in this act by vote
189 taken in accordance with the inter-community agreement. The
190 resolution authorizing the issuance of such [refunding] bonds may
191 provide for the enforcement of any such pledge or security in any
192 lawful manner.

193 Sec. 4. Section 4 of special act 92-25, as amended by section 12 of
194 special act 93-40, is amended to read as follows:

195 The exercise of the powers granted by this act constitutes the
196 performance of an essential governmental function and the committee
197 shall not be required to pay any taxes or assessments upon or in
198 respect of [the] any project, or any property or moneys of the
199 committee, levied by any municipality or political subdivision or
200 special district having taxing powers of the state, nor shall the
201 committee be required to pay state taxes of any kind, and the
202 committee, its projects, property and money and any [refunding]
203 bonds issued under the provisions of this act, their transfer and the
204 income therefrom, including revenues derived from the sale thereof,
205 shall at all times be free from taxation of every kind by the state except
206 for estate or succession taxes and by the municipalities and all other
207 political subdivisions or special districts having taxing powers of the
208 state, provided nothing herein shall prevent the committee from
209 entering into agreements to make payments in lieu of taxes with
210 respect to property acquired by it or by any person leasing a project
211 from the committee or operating or managing a project on behalf of the
212 committee and neither the committee nor its projects, properties,
213 money or [refunding] bonds shall be obligated, liable or subject to lien
214 of any kind for enforcement, collection or payment thereof. If and to
215 the extent the proceedings under which the [refunding] bonds
216 authorized to be issued under the provisions of this act so provide, the
217 committee may agree to cooperate with the lessee or operator of the
218 project in connection with any administrative or judicial proceedings
219 for determining the validity or amount of such payment and may
220 agree to appoint or designate and reserve the right in and for such

221 lessees or operators to take all action which the committee may
222 lawfully take in respect of such payments and all matters relating
223 thereto, and such agreement may provide such lessee or operator shall
224 bear and pay costs and expenses of the committee thereby incurred at
225 the request of such lessee or operator or by reason of any such action
226 taken by such lessee or operator in behalf of the committee. Any lessee
227 or operator of a project which has paid the amounts in lieu of taxes
228 permitted by this section to be paid shall not be required to pay any
229 such taxes in which a payment in lieu thereof has been made to the
230 state or to any such municipality or other political subdivision or
231 special district having taxing powers, any other statutes to the contrary
232 notwithstanding.

233 Sec. 5. Section 5 of special act 92-25, as amended by section 10 of
234 special act 93-40, is amended to read as follows:

235 (a) The [refunding] bonds may be issued in one or more series in
236 such aggregate principal amounts and bearing rate or rates of interest,
237 be executed by manual or facsimile signatures, be issued as term bonds
238 with mandatory deposit of sinking fund payments, at par, a discount
239 or an original issue discount, with or without redemption provisions,
240 with principal and interest payments at such times and in such
241 amounts, be sold at public sale or by negotiation at such price or prices
242 and at such time or times, and contain and be issued in accordance
243 with such other terms, details and particulars as determined by the
244 committee, or delegated by the committee to such committee members
245 as it shall determine.

246 (b) Any proceeds derived from the sale of the [refunding] bonds,
247 and revenues, receipts and income pledged to the [refunding] bonds,
248 or from the project, may be invested and reinvested in such
249 obligations, securities or other investments that are legal investments
250 for the state, and in such obligations, securities, and other investments,
251 including time deposits or certificates of deposit, as shall be provided
252 in the resolution or resolutions authorizing the issuance of the
253 [refunding] bonds.

254 (c) Whether or not the [refunding] bonds are of such form and
255 character as to be negotiable instruments under article eight of title 42a
256 of the general statutes, the [refunding] bonds shall be and are hereby
257 made negotiable instruments within the meaning of and for all the
258 purposes of article eight of said title 42a, subject only to the provisions
259 of the [refunding] bonds for registration.

260 (d) The committee may provide in any resolution authorizing the
261 issuance of [refunding] bonds for the time and manner of and
262 requisites for disbursements to be made with respect to such bonds.

263 (e) The committee is further authorized and empowered to issue
264 [refunding] bonds under this act the interest on which may be
265 includable in the gross income of the holder or holders thereof under
266 the Internal Revenue Code of 1986, or any subsequent corresponding
267 internal revenue code of the United States, as from time to time
268 amended.

269 Sec. 6. Section 6 of special act 92-25 is amended to read as follows:

270 [Refunding bonds] Bonds issued by the committee under the
271 provisions of this act are hereby made securities in which all public
272 officers and public bodies of the state and its political subdivisions, all
273 insurance companies, credit unions, building and loan associations,
274 investment companies, savings banks, banking associations, trust
275 companies, executors, administrators, trustees and other fiduciaries
276 and pension, profit-sharing and retirement funds may properly and
277 legally invest funds, including capital in their control or belonging to
278 them. Such [refunding] bonds are hereby made securities which may
279 properly and legally be deposited with and received by any state or
280 municipal officer or any agency or municipality of the state for any
281 purpose for which the deposit of bonds or obligations of the state is
282 now or may hereafter be authorized by law.

283 Sec. 7. Section 11 of special act 93-40 is amended to read as follows:

284 Bonds of the committee issued pursuant to special act 92-25, as

285 amended by this act, shall not be deemed to constitute a debt or
 286 liability of the state or of any municipality thereof or a pledge of the
 287 faith and credit of the state or of any such municipality, and shall not
 288 constitute bonds or notes issued or guaranteed by the state within the
 289 meaning of section 3-21 of the general statutes, but shall be payable
 290 solely from the revenues and funds herein provided therefor. All such
 291 bonds shall contain on the face thereof a statement to the effect that
 292 neither the state of Connecticut nor any municipality thereof other
 293 than the committee shall be obligated to pay the same or the interest
 294 thereon and that neither the faith and credit nor the taxing power of
 295 the state of Connecticut or of any such municipality is pledged to the
 296 payment of the principal of or the interest on such [refunding] bonds.

297 Sec. 8. In the performance of its duties and purposes under the inter-
 298 community agreement, the committee is granted the powers afforded
 299 to municipal or regional resource recovery authorities under
 300 subsection (a) of section 7-273bb of the general statutes in addition to
 301 any other powers it may otherwise have under the general statutes or
 302 any public or special act. It is the intention of this act that the
 303 committee shall be granted all powers necessary to fulfill the purposes
 304 of this act and to carry out its responsibilities and that the provisions of
 305 this act are to be construed liberally.

306 Sec. 9. Sections 1 to 8, inclusive, of special act 93-40 are repealed.

Statement of Legislative Commissioners:

The phrase "and section 8 of this act" was added to the introductory clause in section 1 in order to clarify the terms in section 8.

ET *Joint Favorable Subst. C/R*

FIN

FIN *Joint Favorable Subst.-LCO*